

CHAPTER 9  
TITLE GUARANTY DIVISION

**265—9.1(16) Location.** The title guaranty division (“division”) of the Iowa finance authority (“authority”) is located at the offices of the Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309, telephone: 515-242-5128.

**265—9.2(16) Business hours.** The business hours for the division are 8 a.m. to 4:30 p.m. Monday to Friday except for legal holidays.

**265—9.3(16) Division board.** The division has a five-member board which acts through the board of the authority. The membership includes an attorney, an abstractor, a real estate broker, a representative of a mortgage-lender, and a representative of the housing development industry. Members are appointed by the governor and confirmed by the senate for a six-year term. The members of the board annually elect a chairperson, vice chairperson and secretary and other officers as they determine are necessary.

**265—9.4(16) Authority staff.** The executive director of the authority shall appoint a director of the division who shall be an attorney and serve as an ex-officio member of the board of the division.

**265—9.5(16) Board meetings.** Meetings of the board shall be held at the call of the chairperson or when a majority of the members so request. Three members of the board constitute a quorum. An affirmative vote of a majority of the appointed members is necessary for any substantive action taken by the division.

**265—9.6(16) Duties of the division.** The division is directed by state law to establish a title guaranty program to protect against loss or damage caused by defective title to real property.

**265—9.7(16) Information and forms.** Information and forms may be obtained from the division. All submissions shall be made to the division.

Rules 9.1(16) to 9.7(16) are intended to implement Iowa Code sections 17A.3, 16.1(34), 16.1(35), 16.2(1), 16.3(14), 16.5(15), 16.40, 16.91, and 535A.12.

**265—9.8(16) Petition to promulgate, amend or repeal a rule.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.9(16) Request for oral presentation concerning intended rule making.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.10(16) Declaratory rulings.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.11(16) Procedure for informal settlements in contested cases.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.12(16) General.** The title guaranty division of the Iowa finance authority has established a program for offering mortgage lenders and the general public low cost protection against loss or damage caused by defective titles to Iowa real property. The title guaranties offered by the division will facilitate mortgage lender participation in the secondary market and add to the integrity of the land-title transfer system in the state. Title guaranty owners and lenders certificates will be available through participating attorneys throughout the state who shall act as limited agents for the division for the sole purpose of issuing title guaranty certificates subject to the rules of the division and applicable law. Any participating attorney rendering a title opinion shall be authorized to issue a title guaranty certificate subject to the rules of the division. The division shall require participating abstracters to update the abstract to any real property for which a guaranty is desired, in accord with division standards. Upon request by a mortgagor or participating lender, the participating attorney will issue a title guaranty commitment and the final guaranty certificate after reviewing an abstract prepared by a participating abstracter.

**265—9.13(16) Participation requirements for attorneys.** Any attorney licensed to practice law in the state of Iowa shall be eligible to participate in the title guaranty program upon execution and acceptance by the division of a participation agreement in the form prescribed by the division. The participation agreement will require that the participating attorney:

1. Maintain attorney's liability insurance with limits of not less than \$100,000 per claim and not less than \$300,000 total annual limit, and disclose to the division the name, address, and telephone number of the liability carrier and the amount of the insurance maintained.
2. Examine real estate titles for the purpose of accurately reporting the state of the title involved in accordance with the Iowa Land Title Examination Standards of the Iowa State Bar Association, where applicable, or other applicable law.
3. Pay an initial participation fee of \$25.
4. Abide by the rules of the division and applicable law.

**265—9.14(16) Participation requirements for abstracters.** Any abstracter or abstracting concern shall be eligible to participate in the title guaranty program upon execution, and acceptance of a participation agreement in a form prescribed by the division. The participation agreement shall require the participating abstracter or abstracting concern to:

1. Prepare abstracts in accord with the most current Iowa Land Title Association Uniform Abstracting Standards, where applicable.
2. Own or lease, and maintain and use in the preparation of abstracts as up-to-date abstract title plant including tract indices for real estate for each county in which abstracts are prepared for titles to real property guaranteed by the division. Each of the tract indices shall be designated to encompass a geographical area of not more than one block in the case of platted real estate, nor more than one section in the case of unplatted real estate. The tract indices shall include a reference to all of the instruments affecting real estate recorded in the office of the county recorder, and the tract indices shall commence not less than 40 years prior to the effective date of the abstracter's participation in the title guaranty program. Provided however, participating attorneys providing abstract services continuously from November 12, 1986, to the date of application either personally or through persons under their supervision and control shall be exempt from the requirements of this paragraph.
3. Maintain abstracter's liability insurance in an amount not less than \$50,000 total annual limit, and disclose to the division the name of the liability carrier and the amount of insurance maintained.
4. Pay an initial participation fee of \$25.
5. Retain either a carbon copy or a mechanical reproduction of each certificate continuation and new abstract of title prepared after December 31, 1986, for which a title guaranty is issued.
6. Abide by the rules of the division and applicable law.

**265—9.15(16) Participation requirements for lenders.** Any mortgage lender as defined in Iowa Code section 16.1(14) that is authorized to make mortgage loans on Iowa real estate shall be eligible to participate in the title guaranty program.

**265—9.16(16) Forms, endorsements, and manuals.** The division shall adopt title guaranty certificate forms and endorsement forms that are acceptable to the secondary market in accord with the provisions of Iowa Code chapter 16. In addition, the division shall publish a manual for use by participating attorneys, abstracters, and lenders, which manual may be revised from time to time. Such manual shall include forms of the certificates and endorsements. The manual shall also include the membership participation standards and requirements, and such other matters deemed necessary by the division for implementation and effective administration of the title guaranty program.

**265—9.17(16) Application for waiver of participation requirements.** It is the intention of the division to make title guaranties available statewide. Therefore, in order to achieve the widest possible geographic coverage, the division will allow any abstractor or attorney the opportunity to apply for a waiver of the participation requirements set out in rules 9.13(16) and 9.14(16). Any application for waiver of participating requirements should be directed to the board of the division and should succinctly state which participation requirements are requested to be waived. The request should contain adequate supporting information and argument so that the board may make an informed decision on the request. It is the intention of the board to waive participation requirements only when it is determined that they result in a hardship to the requesting abstractor or attorney and the waiver clearly is in the public interest or is absolutely necessary to ensure availability of title guaranties throughout the state.

**265—9.18(16) Rates.** The division shall fix the rate for the owner's guaranty, the lender's guaranty, and the various endorsements that will be offered by the division. The division shall make a published rate schedule available to mortgage lenders.

**265—9.19(16) Charges.** No participant in the title guaranty program shall charge or receive any portion of the charge for the guaranty as a result of participation in the title guaranty program.

**265—9.20(16) Disclosure information.** Rescinded IAB 5/2/90, effective 6/6/90.

**265—9.21(16) Seal.** The division shall have a corporate seal that may be altered from time to time. The seal shall impress the words "Title Guaranty Division Iowa Finance Authority" and may be used to authenticate acts and legal instruments of the division.

Rules 9.8(16) through 9.21(16) are intended to implement Iowa Code sections 17A.3, 17A.9, 17A.10, 16.1, 16.2, 16.3, 16.5, 16.40, 16.91, 535.8(10), and 535A.12.

**265—9.22(17A,16) Contested case proceedings presiding officer.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.23(17A,16) Right to contested case proceedings.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.24(17A,16) Time limit for request.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.25(17A,16) Notice of contested case.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.26(17A,16) Form of request.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.27(17A,16) Subpoena power.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.28(17A,16) Conduct of contested case.** Rescinded IAB 9/22/99, effective 9/3/99.

**265—9.29(17A,16) Decisions.** Decisions of the board shall be in writing and shall be mailed to the parties involved in the proceeding.

**265—9.30(17A,16) Petition for receipt of additional evidence.** If, prior to the issuance of the final decision, any party feels that the submission of additional evidence is necessary, the party shall request an opportunity to present additional evidence by mailing a request to the chair of the division's board by ordinary mail, c/o the division's office at Suite 222, 200 East Grand Avenue, Des Moines, Iowa 50309. The party shall, in addition, notify all opposing parties by certified mail, return receipt requested, including in such notice to the opposing parties all information submitted to the chair.

The chair shall review the requests and either reject the request or establish an additional hearing no sooner than seven calendar days from the chair's decision. The chair shall notify the parties of a decision to adopt additional evidence by certified mail, return receipt requested. Notice of a decision to reject additional evidence may be by ordinary mail.

Rules 9.29(17A,16) and 9.30(17A,16) are intended to implement Iowa Code sections 17A.10 to 17A.18.

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